Q. Could you give us the name of that organization? A. The Industrial Hospital Association.

Q. About how many employees would you say are
957 covered by that organization? A. I would say around 70 or 75.

Q. Is that a group contract or is that an individual contract? A. It is a group contract.

Q. Now, going back several years, were the employees of that company covered under the same arrangement or were most of them covered by Industrial or some other hospital association? A. The way I understand it was before I went to work there that they had the Industrial at first and then the largest number of employees changed over to OPS, but they still carried the Industrial along for those who cared to stay with them.

Q. Has it been your experience that with respect to the acceptance of the Industrial tickets in that area the doctors generally refused to accept those tickets? A. Mostly refused—most of them do refuse, not all of them, but it seems like the ones that most of the people go to—

Q. Does the company have any procedure for taking care of those cases where the doctors refuse to accept tickets? A. Well, the employees can bring their bills to me or can send them in directly themselves, or if a bill is under $25 they can come to me and get a doctor's ticket and take that bill to an office in town and receive payment.

Q. In the course of your duties with the company
958 you do take care, do you not, of collecting bills of the Industrial covered employees where the tickets are not accepted and forwarding them to the Industrial Hospital Association? A. Yes, I do.

Q. Do you do anything like that in connection with the Oregon Physicians' Service? A. No.

Q. Does the company have some employees who work in Astoria but who live outside the state? A. Yes.

Q. Now, when new employees are hired, are you the person who tells them about the various prepaid medical care plans that are available to them? A. They can come to anyone in the office, and they will explain it to him. I do it, and the other girls in the office do.

Q. And in that connection do you tell them about the difficulty you had with respect to doctors accepting the tickets? A. Yes.

Q. Now, with respect to those new employees, what prepaid medical care organization do most of them go into?

936 They questioned us at quite come length about it. We answered their questions, we thought, as directly as we could. They appointed—

Mr. Marcus:

Q. Before you get to that, were there others present besides your group and the Yamhill County doctors at this conference, this meeting? A. I can't say. There were strangers there to me. I didn't know all the doctors or all the people that were there. Dr. Malbin was there from Northern Permanente. He was associated with them in one of their hospitals there, and he was present at that meeting. Who else was there I don't know.

We openly asked them or told them our purpose in coming was to ask that they not oppose our plan and, therefore, we explained the plan to them and in conclusion the President of the County Medical Society said, "How can we say we won't oppose your plan when we don't know what it is or don't know anything about it?"

Well, I thought we had explained it enough that they could give us a reply, so he appointed a committee, and the chairman of this committee that he appointed was one of the doctors who, during this evening meeting, had been most outspoken in opposition to our plan.

This doctor said he could not act as chairman, so the President of the County Medical Society said he
937 would appoint somebody in his place, and then this committee could go ahead and study our plan and that he would let us know when the committee was completed, and that is the last we ever heard of it.

(Photostatic copy of advertisement in the News-Reporter, McMinnville, Oregon, Thursday, April 8, 1948, entitled "Prepaid Medical, Surgical and Hospital Insurance," was thereupon marked PLAINTIFF'S IDENTIFICATION No. 1940.)

The Court: Who was the doctor who was acting chairman?

A. Dr. Williams.

Mr. Marcus:

Q. I show you Plaintiff's Identification 1940 and ask you whether, following this meeting, this advertisement was put in the News-Reporter of McMinnville by Dr. Williams? A. Yes, this ad was placed in both local newspapers following the meeting.

Q. After that meeting did you have occasion to again take up with Dr. Huckleberry the matter of acquiring his interest in the hospital? A. Yes.

Q. What occurred in that connection? A. After this meeting at which we raised money to take an option, we met with our attorney and we started proceedings, and at a subsequent meeting our attorney told us to ask Dr. Huckleberry to bring in certain papers that our
938 attorney felt he should see in order to go ahead with the deal, and Dr. Huckleberry said he would, but he did not. He went no further with it. He said he wanted—

Mr. Jaureguy: I want to object to this as being hearsay.

The Court: Continue.

A. He called us and asked to meet with us, and we did, and at that meeting he no longer was apparently interested in selling the hospital until he would work out a plan that would be agreeable to the doctors.

He told us that he had been in to the Executive Secretary of the State Medical Society, and that this man had pounded the table at him and told him before he sold to us he had better get a plan that was acceptable to the doctors.

Mr. Marcus:

Q. Did anything ever come of this plan your group had? A. No, sir.

Mr. Marcus: At this time I would like to offer this Plaintiff's Identification 1940 in evidence.

The Court: Admitted on the same terms.

(Document previously marked Plaintiff's Identification No. 1940 was thereupon received in evidence and marked Plaintiff's Exhibit No. 1940.)

Mr. Marcus: At this time, your Honor, I would like to ask the defendants to produce the correspondence of the State Medical Society and the Multnomah County
939 Medical Society for the years 1947 and 1948 relating to prepaid medical care organizations or plans in McMinnville.

The Court: Will you do that, when you can?

Mr. Jaureguy: Yes, your Honor, if we can find any. I am certainly not saying there is any, but if we can find any and the Court asks us to produce it, we will produce it.

Mr. Marcus: One other item, your Honor: We have prepared a subpoena duces tecum to the Yamhill County Medical Society for its 1947 and 1948 minutes and its correspondence for those years relating to this matter. I would like to hand that up. It is returnable Tuesday.

The Court: Are you through with the witness?

Mr. Marcus: Yes.

Cross Examination

By Mr. Jaureguy:

Q. Dr. Huckleberry had owned this hospital for a long time, hadn't he? I mean, he owned a controlling interest for how long, do you know? A. Two or three years.

Q. He had come from some other part of the state and purchased the controlling interest, had he not? A. That is right.

Q. For some reason or other he had kept out Dr. Heringer and one or two other young doctors. Is that correct?

A. That is right.

940 Q. Did Dr. Heringer later on lose interest in the proposition towards the end? A. I didn't get your question, sir.

Q. Did Dr. Heringer lose interest in the idea of working for your organization towards the end of it? A. Yes, towards the end of it—well, before the end of it he told us he did not feel he could make the sacrifices that he would be called upon to make.

Q. He had an alumni letter there, you say? A. He had an invitation to an alumnus affair and he said, "I would not receive these if I worked for you fellows."

Q. Did Dr. Huckleberry, towards the end, advise you that he had discovered that he had an outstanding option, that he had to take care of, to another stockholder in the hospital? And that was the reason he could not sell to you? A. No. I doubt that he did, while we were negotiating with him.

Q. You mean you doubt that he told you that? A. I doubt that he had an option while we were negotiating with him.

Q. That is not my question. The question I asked you is whether he told you that there was an outstanding option? A. No, sir; he didn't.

Q. Did you ever hear of that option? A. No, sir.

941 Q. This is the first you have heard of it? A. Yes.

Q. Then was this the only hospital in McMinnville? A. No.

Q. How many hospitals were there in McMinnville? A. There were two others.

Q. Two others? How were they in comparison to the size of this one? A. This was the largest of the three.

Q. Most of the doctors in McMinnville had patients from time to time in this hospital, did they not? A. No, sir.

Q. Is that so? This was the largest hospital, you say? A. Yes.

Q. How many doctors do you know took their patients to that hospital besides Dr. Huckleberry? A. Dr. Skelley, Dr. VanZyl and Dr. Menkel.

Q. Is that all? A. Dr. Noble.

Q. And Dr. Huckleberry? A. Yes. You said besides Dr. Huckleberry.

Q. Oh, yes. That is right. That is all, is it? That is all you know of that took their doctors there? A. Dr. Law of Amity, I believe. You say "took their doctors there"?

942 Q. Took their patients there, I mean; had their patients sent there for hospitalization. A. I think that pretty well covers it.

Q. How many doctors—I don't suppose you know how many doctors there are in McMinnville. I won't ask you that. I can get that information elsewhere.

This offer that was made to you by Dr. Huckleberry, that involved a total payment of $81,000? Do you recall that? A. Yes, sir.

Q. You had raised $1,000 for the option for it? A. That is right.

Q. Had you paid that amount to him?

The Court: What was the first amount?

Mr. Jaureguy: $81,000.

The Court: For his stock?

Mr. Jaureguy: Well, I just can't make it out, your Honor. It says 200 shares in the McMinnville Hospital, $61,000, and then acreage by the hospital, the clinic, the house at 510 South Baker Street, $14,000. Then, clinic equipment and supplies.

Q. That would be in addition to the $81,000, wouldn't it? Or do you recall that? A. Yes, it would. Notice, that does not add up exactly, so he made it an approximation because there will be figures in here, "Clinic equipment and supplies at inventory."

If he was going to sell the hospital, he wanted to
943 sell the clinic and his residence, and this acreage that he had bought was for parking space near the hospital.

Mr. Jaureguy:

Q. The figures he put in there, in addition to the clinic equipment and so forth, add up to $81,500. A. That is right.

Q. So it is $81,500 plus clinic equipment and supplies? A. That is right.

Q. Did you pay him that $1,000 for the option? A. He wouldn't take it.

Q. He would not take it? When did you offer it to him? A. We didn't offer it to him because our attorney asked him to bring certain papers that our attorney properly felt that he should have, and then we would turn the money over to him for the option.

Q. Did these papers which your attorney wanted include the minutes of the meetings of directors and stockholders of the McMinnville Hospital? A. I don't think they did.

Q. Do you remember what they did include? A. It would be the liabilities, and other things that would be in line with the purchase of any piece of property.

Q. Did it include a certified copy of the resolution of the stockholders of the McMinnville Hospital? A. No.

Q. Did not include that? A. You mean our at-
944 torney's request for those things?

Q. A certified copy of the resolution of the stockholders of the McMinnville Hospital, authorizing Dr. Huckleberry to give this option? Well, it would not require that, would it? A. The doctor operated and owned the equipment in the clinic.

Q. He owned the clinic or did the hospital own the clinic? A. The doctor owned the clinic.

Q. Did the doctor own the real property surrounding the clinic? A. The building?

Q. I mean, surrounding the hospital? A. No, that was the hospital association; the company owned the hospital.

Q. The same company that owned the hospital owned the land around it, is that right? A. That is my understanding.

Q. So that he was selling you 200 shares in the association and then the corporation apparently was selling you

the land around it, is that right? A. That is the way it would have to be, yes.

Q. Your attorney did not ask for a certified copy of the resolution of the Board of Directors of the hospital association authorizing the giving of an option for that acreage? A. No, sir.

Q. Later he sold his interest in the hospital to Dr. Noble, did he not, or do you know? A. I don't

945 know.

Q. You do not know? A. No. I know he sold his interest in the hospital, but who bought it I don't know.

Q. You say at this meeting you had with these doctors there was also a doctor from Permanente there. I didn't get his connection. You said something about him? A. Yes.

Q. What was that? A. Naturally he was friendly to our efforts because their plan was somewhat similar to ours, and then he was an X-ray specialist at the McMinnville Hospital and came there once a week to take X-rays and read the pictures.

Q. That is, this Permanente doctor would come to the McMinnville Hospital for the purpose of reading X-rays for the doctors in McMinnville? A. Yes.

Q. That was his connection with the doctors at McMinnville? A. Yes.

Q. Was he a resident of McMinnville? A. No.

Q. He was not? A. No.

Q. In other words, he would go from Portland to McMinnville now and then to read X-rays? A. That

946 is right.

Q. The doctors, as I understand it, tried to persuade your group to take OPS instead of this? A. Yes.

Q. In fact, it was their main argument to try to persuade you not to do this, that you would do just as good by OPS? A. They certainly advertised OPS during this process.

Q. Just like this doctor did in this ad. A. They wanted even to use our public meeting as a place to advertise their product.

Q. But you would not permit that? A. We asked them not to do it.

Q. Were you to be the manager of this cooperative? A. No, sir.

Q. Who was to be the manager? A. That would have

to be up to the Board of Directors when the time came, that they organized and set it up for business.

947 Mr. Jaureguy:

Q. And they never got so far as to have a manager? A. No, we didn't. That is what we feel bad about.

Q. Now, as I understand it, Dr. Williams, when he expressed himself that he already was against your plan, then he was relieved as a member of the committee and somebody else put on? A. He said that—the conclusion we drew was he was just an elderly man that didn't care to be that active.

Q. Well, he did express himself as opposed to it? A. Yes, sir.

Q. And then he voluntarily withdrew from the committee? At least, you say he was replaced? A. He asked the county president to appoint somebody else; that he didn't wish to serve.

Q. After the chairman had appointed him, he asked to be relieved and somebody else was appointed? A. That I can't say, because they have never given us a report on it.

Q. Well, you did say, though, that one of the others was appointed. A. I said that the county president would appoint somebody as chairman and would let us know. And as far as I know, that was never done.

Q. Instead of Dr. Williams? A. Yes.

948 Q. About when was this meeting? I might say that your letter from Dr. Huckleberry was dated January 31, 1948, if that helps any. A. Well, our meeting at which they wanted to bring their OPS representative was February the 17th, and this was approximately a month later.

Q. In about the middle of March, 1948? A. Yes, about April 1st, somewhere along there.

Q. You have never heard any more about it? A. No.

Mr. Jaureguy: That is all.

(Witness Excused)

949 SAM RITCHEY was thereupon produced as a witness in behalf of the Plaintiff and, having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Weinstein:

Q. Mr. Ritchey, with what company are you connected? A. California-Oregon Power Company.

Q. What is your position? A. District Manager at Klamath Falls.

Q. What county is that in? A. That is in Klamath County.

Q. How long have you held that position? A. I have held that position three years.

Q. Before that what was your position? A. Before that, one year as assistant manager; four years prior to that as acting district manager; and four about three years prior to that assistant manager.

Q. When did you first come with the company, about what year, do you recall? A. Oh, I went to work with the company first in 1927.

Q. How long have you been down in the Klamath County area? A. I have been there since December, 1927.

Q. Where does the California-Oregon Power Company operate? A. Well, its territory in which it operates is in what we say Southern Oregon and Northern Cali-

950 fornia.

Q. I see. Now, does the Oregon generating plant send electrical energy across into California for retail sale in California? A. That is correct.

Q. Does the California generating plant send electricity across the state line into Oregon for retail sale in Oregon? A. Yes, that is true.

Q. Does the company get supplies from outside of Oregon? A. Well, its supplies, materials and equipment, yes. Most of them are manufactured outside of the state.

Q. Are the employees of your company in Oregon covered by any prepaid medical care plan? A. Yes, the employees have the option of membership in the Industrial Hospital Association.

Q. Are they members? A. Well, I believe that the requirement is 85 per cent, and we have in excess of that.

Q. Are the employees of your California operation covered by any prepaid medical care plan? A. Yes, they are covered by the same Industrial Hospital Association plan.

Q. Where is the California operation? A. Well, Northern California. That is Crescent City, Yreka, Dunsmuir, Dorris, Tule Lake, and Alturas.

Q. Has your attention ever been called to doctors
951 in Klamath County here in Oregon refusing to accept the tickets of the Industrial Hospital Association or refusing to cooperate with the Industrial? A. Well, yes. That has come to my attention, that they have refused the tickets issued by our office.

Q. Has the company adopted any procedure in order to handle these accounts where the doctors have refused to take these tickets? A. Yes, the company—that is, the office, the office employees and myself have as a courtesy agreed to correspond with the Association for the employees in presenting a paid receipt or statement for medical or hospital services.

Q. Do you handle any part of that correspondence yourself? A. I have handled most of it personally, yes.

Q. Now, do any of the employees in California regularly come into Oregon for treatment by Oregon doctors? A. Yes, that is almost entirely the situation with the employees in Tule Lake and Dorris, because those localities are really a part of the so-called Klamath Basin, and Klamath Falls is their trading center, the metropolis of that Basin.

Q. Have you had occasion to send their doctor bills to the Industrial office for reimbursement for them? A. Yes, I have handled statements and receipts from employees in California by correspondence, mailing those statements to the Hospital Association.

952 Q. Has this procedure that the California-Oregon Power Company had to adopt for the ticket refusal situations necessitated more paper work for your office and for you? A. Yes. Of course, we have about 125 employees in the district and a few additional in California, so in the course of a few years it amounts to quite a volume of correspondence. We have several files, as a matter of fact, accumulated, correspondence for the employees.

Q. That goes through your office? A. Most of it I have handled personally, yes, through my office.

Q. Well, if the doctors took the tickets would you be relieved of all that correspondence burden? A. Yes, that would be true. The intention was, or the arrangement was between the employee and the hospital association that the company would not have a direct part in it, except as a party to the contract. That would be my concept of it.

Q: Mr. Ritchey, I am showing you Plaintiff's Exhibit 528, and I ask you only if you can tell us who is Mr. S. M. Bullis, who signed that letter. A. Mr. S. M. Bullis is the present district manager for the power company in Medford.

Mr. Weinstein: Your witness.

Mr. Jaureguy: I wonder if I could get that defendants' exhibit, a photostat. Suppose I ask Mr. Cohen to look, and in the meantime I will take the original instead of the photostatic copy.

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Mr. Cohen: Mr. Jaureguy, could you be a little more specific so I know what I am looking for?

Mr. Jaureguy: The first exhibit we had marked. It is a letter from the Klamath Falls Medical Society to the California-Oregon Power Company, dated about December—it doesn't have any date on it, but it was written about December, 1941.

Mr. Cohen: Was it a plaintiff's or defendants exhibit?

Mr. Jaureguy: It is a defendant's exhibit.

Mr. Cohen: I am sorry, Mr. Jaureguy, I don't have any defendants' exhibits.

Mr. Jaureguy: That exhibit seems to have been lost, your Honor. It was one of their photostats. I put it in and never got it back. I am not blaming anybody.

The Court: You don't need it right now.

Mr. Jaureguy: Yes, I would like to show it to the witness if I might.

The Court: He hasn't finished with the witness.

Mr. Jaureguy: I thought they told us they had finished.

Mr. Weinstein: Yes, I have finished, your Honor.

The Court: He can come back at 2:00 o'clock, Mr. Jaureguy, and maybe you can find it during the noon hour. The witness can come back for cross-examination at

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2:00 o'clock.

Mr. Jaureguy: Very well.

The Court: Put on another witness, Mr. Weinstein.

Mr. Jaureguy: I wanted to question him about other matters, of course, but not very long.

The Court: Do you have any more witnesses?

Mr. Marcus: Yes, sure.

The Court: Call your next witness.

(Witness Withdrawn)

Mr. Jaureguy: I object to that as incompetent, irrelevant and immaterial.

The Court: Answer.

A. Most of them have the OPS.

Mr. Marcus: That is all.

959 Cross-Examination

By Mr. Jaureguy:

Q. Most of the doctors you say in Astoria don't take the Industrial tickets? A. They don't.

Q. Some of them do and some of them don't, in other words? A. Some of them do.

Q. And you have been there how long? A. I have been there since June 1st, 1944.

Q. 1944? A. Yes.

Q. And that has been true ever since you have been there, that some of the doctors took them and some don't? A. I didn't start collecting for the Industrial when I first started to work there. I was there approximately a year and a half. So, I wouldn't know before that time.

Q. But ever since the middle of 1945? A. Yes.

Q. It has been a case of some of them taking them and some not taking them? A. That is right.

Q. And as the years went on do you know whether more of them took them or refused to take them? A. I don't know.

Q. You don't know. Did you ever have to have
960 correspondence with OPS regarding claims of members? A. Yes.

Q. And what did that correspondence relate to usually? A. Well, some of the members will send their bills in to me, and if they are accepted then checks come and I mail the checks to the employee. If the bill is not paid, many times an employee will come and ask me if I will find out—

Q. I am referring now to OPS.

A. Well, I don't have to do anything on that. They just get a ticket and take that to the doctor and that is all there is to it.

Q. Do you ever have correspondence with Industrial Hospital Association other than merely sending in the bills and getting them paid? A. Well, I don't know whether exactly it comes under correspondence or not, but I send in payments each month to them.

Q. Premiums, you mean? A. Yes. And then applications for new members.

Q. But when you send in the bills to the Industrial they are regularly paid? A. Yes. They send the check to me made out to the employee.

Q. And you don't have any trouble in that regard? A. It takes a little longer for some than for others.

Q. I am sorry. I didn't hear you. A. It takes a little longer for some than others and the employees come
961 in and I will write and see what is holding up payment.

Q. And then you write? A. And then I write and always receive an answer.

Q. Usually when you write do you get the payment then? A. No. I will either get the payment or an answer.

Q. Sometimes do they refuse to pay? A. Well, if it isn't under their contract.

Q. That is, sometimes— A. If it is not covered under their contract they then refuse payment.

Q. Some of the times when you write they don't pay the bill because it isn't under the contract? A. That is right.

Q. And sometimes do they pay part of it and not all of it because part of it is under the contract and some isn't? A. Well, if they have done it that way, they haven't said anything to me. The employee has accepted the payment and that is all I have known about it.

Mr. Jaureguy: That will be all. Thank you.

Mr. Marcus: That is all.

(Witness Excused)

Mr. Marcus: Mr. Harding.

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962 LESTER J. HARDING was thereupon produced as a witness in behalf of Plaintiff and, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Marcus:

Q. Mr. Harding, what is your occupation? A. I am vice president and general manager of the Columbia Hudson Lumber Company.

Q. And were you at one time connected with the Westport Lumber Company? A. Yes. I had that same capacity there.

Q. And were you with them when the name became Shepherd & Morris Lumber Company? A. Yes, I was.

Q. And when did you have your first connection with the Westport Lumber Company? A. January, 1941.

Q. And until when were you with them? A. Till December 1st, 1945.

Q. At the time you started with the company were the employees of that company, to your knowledge, covered by prepaid medical care insurance? A. Yes.

Q. And with what company? A. Industrial Hospital Association.

Q. As part of your duties did you enter into ne-
963 gotiations with the Association with respect to the contracts made? A. Are you referring in regard to the contract, when it was signed?

Q. Yes. A. The contract was renewed and certain things were discussed at renewal, yes.

Q. Did the matter of doctors in that area refusing to accept tickets come to your attention while you were with the company? A. Yes, we had difficulty.

Q. Perhaps I had better locate the company. Where was it located? A. At Westport, Oregon.

Q. And in what county is that? A. Clatsop County.

Q. Now, what precedure did the company adopt when the doctors refused to accept tickets to see to it that the men did get their medical care and did get their bills paid? A. As I recall it, we took the matter up with the hospital association and they stated that it would be all right for the employees to pay the bills and send them on to them and they would reimburse them the money they had paid out.

Q. And did the company in some cases advance moneys to the men so that they could pay their medical bills and then recover it from the Hospital Association? A.
964 I am not too familiar whether or not, but they had instructions to do so if the patient needed travelling expenses to get in to the doctor, but I don't know of actual cases.

The Court: Instructions from whom?

A. By the management. The management gave instructions to the timekeeping department to see to that.

Mr. Jaureguy: I didn't hear the answer before. Will you read it?

(Referred to answer was read.)

Mr. Marcus:

Q. Did the Westport Lumber Company send its products outside of the state? A. Yes. We did business nation-wide and exporting.

Q. And did the company receive supplies from outside of the state? A. Yes.

Q. Do you recall an incident while you were there concerning the refusal of a doctor to attend an employee who had an IHA ticket? A. What was the last of that question? I didn't get it.

Q. Who had an Industrial Hospital Association ticket. Put it this way: A member, with respect to a member who was covered by the Industrial Hospital Association, do you recall an incident where a doctor refused treatment?

A. The only information that came to me was re-
965 ported information that so and so had been refused.

Mr. Jaureguy: Objection that it is hearsay.

The Court: Sustained. Just tell what you know.

Mr. Marcus:

Q. Well, did you yourself have occasion to speak to a doctor with respect to this matter, do you recall? A. I couldn't recall a direct conversation with the doctor.

Q. About how many employees did the Westport Lumber Company have while you were with them? A. Around 350 to 375.

Q. And where did they usually go to get their medical treatment? A. Well, first, if the case was not complicated they called on the hospital company doctor located in the town.

Q. And where would they go when they wanted more extensive treatment? A. They were given the option of going to any doctor they chose.

Mr. Marcus: That is all.

Cross-Examination

By Mr. Jaureguy:

Q. That is, on the minor injuries and illnesses they go to a doctor in Westport who is on the Industrial Hospital Association pay roll? A. Well, that in itself was optional.

Some employees went home and then went to their
966 family doctors.

Q. Oh, yes. A. But the doctor at the town did take care of the majority of the small cases—that is, cases of colds and so on.

Q. Did they need tickets to go to him? A. No, I believe they went to him without tickets, but to complete the record we furnished him with tickets or substantiated the fact the man worked for the company.

Q. Now, do these men that go to doctors, to other doctors, the doctors of their choice, do the doctors all refuse to take tickets, or do some of them take it and some of them not, some of them give their bills and some take tickets? A. I believe there were some that took tickets, some doctors.

Q. And the Industrial Hospital Association advised you, did they not, that it was alright with them whichever way it was done, whether there was a ticket or whether there was a statement? A. I believe that is true, as I recall it.

Q. So that there are just two methods that are handled where the man goes to a doctor of his choice, and that is if the doctor takes the ticket and the doctor sends in the bill, and if he doesn't take the ticket he gives the man an itemized bill and the man sends it in or your company did it for him? A. I believe that was the procedure. I didn't handle the details.

Q. Do you know whether there has been any change
967 among the doctors as to the number that take tickets and don't take tickets from the time you were down there? I believe you were there from January '41 to December '45 you said. A. I can't recall, but it seems to me that the doctors did give services a little better, but I don't believe that they accepted tickets in all cases.

Q. You don't recall that there was any time you were down there that they accepted the tickets in all cases? A. Yes, they did at the beginning, so far as I know, when I first went there.

Q. Wasn't it about 1944 that more of them stopped taking tickets? A. I think the trouble arrived a little earlier than that, possibly in '43 or '42.

Mr. Jaureguy: I see. That will be all. Thank you.

(Witness Excused)

The Court: Noon recess.

(Noon Recess.)

968 Court reconvened at 2:00 o'clock P.M., October 28, 1949.

SAM RITCHEY, a witness on behalf of Plaintiff, having been previously duly sworn, resumed the stand and was examined and testified as follows:

The Court: Mr. Jaureguy, are you ready to cross-examine?

Mr. Jaureguy: Yes, your Honor.

Cross Examination

Mr. Jaureguy:

Q. Mr. Ritchey, during the time you have been with the California-Oregon Power Company has your jurisdiction been merely with the Klamath Falls office? A. Yes, the Klamath district, that is correct.

Q. You do not have anything to do with the Medford district? A. No.

Q. You do not know anything about the operation of prepaid medical care plans in Medford or the misbehavior of doctors or anything of that kind? A. I have no jurisdiction in the Medford district, that is correct.

Q. You say you do? A. I do not.

Q. You do not? A. No.

969 Q. So you would not know of your own knowledge of anything that has been happening in Medford in the last seven or eight years on this subject? A. Yes, I do. I have frequent conversations with my superiors in the home office, which happens to be in the Medford office, and also the manager in Medford, Mr. Bullis, who has a similar job to mine.

Q. I have here a copy of a letter that was written to the President of the California-Oregon Power Company at Medford the latter part of September, 1941, and I am wondering if that letter was ever called to your attention? A. No, sir; I am quite sure I have never seen it before.

Q. This letter, as you notice, says that the California-Oregon Power Company to place a list of the doctors who work on members having Industrial Hospital Association tickets, to place that list—that the California-Oregon Power Company show it to its employees. Did you have a similar situation in Klamath Falls? A. A case where we poster a list of the doctors?

Q. A case where the doctors in Klamath Falls, along about the first of 1940, asked that they be considered as doctors willing to serve members of the Industrial Hospital Association? A. No, I do not recall anything coming from the doctors to us, volunteering to handle IHA.

Q. Requesting that they be put on the list? A. I
970 don't recall it, sir, no.

Q. You do not recall that? A. No.

Q. You have been at Klamath Falls how long? A. I have been there twenty-two years.

Q. Twenty-two years? A. Yes.

Q. In handling Industrial Hospital Association medical care, has the Association had a selected list of doctors in Klamath Falls you were asked to send your men to, or did they tell you to send them to anybody in the city? A. No, we were absolutely free to send our men to any doctor of their own choice.

Q. How long has that been? A. That has been ever since I can remember.

Q. Ever since you can remember? A. Yes. There has been no list of preferred ones. It was the employees' choice.

Q. The employees' choice? A. That is correct.

Q. That has been as long as you can remember? A. That is right.

Q. Are there very many doctors in Klamath Falls who prefer not to take tickets but to give itemized statements instead? A. Yes. The answer to that should be
971 probably made in different periods, different dates.

Q. Could you give us a little history of that? A. Yes. I think it was probably in the beginning, eighteen or nineteen years ago, that the contract with IHA, the Industrial Hospital Association, was written.

As I remember, then practically all the doctors in town would accept a so-called slip or certificate.

Q. Yes. A. And bill the IHA directly. Later the contrary was true. A greater percentage of the doctors preferred not to bill directly, and then it was necessary that we process the claims for the employees.

Q. Could you tell us about when that was? A. Well, it was rather progressive, a rather progressive feature. That is, there was no marked point at which they swung one way or the other, but I can tell you this specifically, that some of the old-time doctors who had handled individuals for many years would continue handling those individuals and then, within the past three or four years, those doctors said that they no longer preferred to handle

those individuals directly with the IHA, which meant that their claims, or the claims of employees, had to be processed to the IHA for reimbursement.

Q. Do you know anything about the Klamath Medical Service Bureau? A. Yes. I feel I am pretty well ac-
972 quainted with their organization and service.

Q. That was organized, do you recall, along about the end of 1939 or the beginning of 1940? A. That coincides with my recollection, about ten years ago.

Q. Do you remember when it was formed that the doctors took the position that either all of them would handle these cases or none; that if the Industrial was willing that they all handle them, they would; but if the Industrial was not willing that they all handle them, then none of them would handle them? A. No, I don't recall any such proposal as that, sir.

Q. Did the organization of the Klamath Medical Service Bureau mark the time when more or less doctors refused to handle these tickets or slips? A. No, I don't believe it marked any change.

Q. As you recall it, then, the organization of the Klamath Medical Service Bureau neither increased nor decreased the number of doctors that took slips or tickets? A. No. It is hard to point out a significant date on which there was any change, because the trend would go both ways. I mean, there would be a few doctors handling slips directly; then at a later period there would be more; and then at a later period there would be fewer. I imagine it was the influx of new doctors into the town and some of the older doctors going into the military service. I know at the present time there are fewer doctors in Klamath Falls
who will take slips than at any time in the past, to-
973 my recollection.

Q. Fewer than there were a year ago, for instance? A. Pardon?

Q. Fewer than there were a year ago? A. Yes, I believe that is the trend.

Q. Do you think half of them took slips? A. No, I estimate there probably are thirty-five doctors in town and, while I am not positive of the ones who did or did not accept them, I don't believe over one-third accept them at the present time.

Q. The other two-thirds give itemized statements instead? A. Yes.

The Court: Aren't there several county societies that have their own prepaid plans?

Mr. Jaureguy: Oh, yes, your Honor.

The Court: Isn't Klamath one of them?

Mr. Jaureguy: Klamath is one of them.

The Court: The doctors there own both hospitals, all the hospitals?

Mr. Jaureguy: They own the hospitals and have their own prepaid plan.

The Court: Prepaid medical as well as hospital care?

Mr. Jaureguy: That is correct, and also take care of other patients, of course.

The Court: That is what interested me: It is not exclusive with them. They do not reject IHA patients be-
974 cause they have their own plan?

Mr. Jaureguy: That is correct. You don't know of any instance—

Mr. Marcus: Your Honor, I would like to have the record show what they did and what they did not do, not just the comment of Counsel.

Mr. Jaureguy: That is what I am getting at. I will see if I am right now.

Q. You don't know of any instance where a doctor has ever refused to treat a patient because he was a member of the Industrial Hospital Association? A. Because he was a member of the Industrial Hospital Association?

Q. Yes, any doctor that refused to treat a patient because he was a member of the Industrial Hospital Association? A. Well, I know of cases where doctors refused to treat patients until the proper credit arrangements were made. That is answering it indirectly, isn't it?

Q. You mean a doctor refused to—he didn't refuse to treat them because a patient was a member of the Industrial Hospital Association? A. No, absolutely not, sir.

Q. Or that any doctor ever refused to treat a patient because he was a member of any other hospital association?

A. I do not have any personal knowledge of that,
975 and I have never heard it reported.

Q. The Industrial Hospital Association has written you, telling you that it was satisfactory with them if the doctor, instead of taking a ticket, gives an itemized statement? A. Yes.

Mr. Jaureguy: That will be all.

Mr. Weinstein: That will be all.

(Witnessed excused.)

DR. W. H. BELKNAP was thereupon produced as a witness on behalf of Plaintiff and, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Marcus:

Q. Doctor, are you admitted to practice in the state? A. Yes, sir.

Q. Are you admitted to practice in any other state? A. I practiced in the State of Washington for a few months after I finished medical school, although I have never kept up my license from year to year, so I doubt if I would be considered eligible to practice in Washington, although I did practice in Washington at one time.

Q. How long have you been practicing in this state? A. Since 1927.

976 Q. Dr. Belknap, during the '30s did you have occasion to treat members of the hospital associations in Oregon? A. Yes, sir.

Q. How did that come about? A. Well, as a rule, these cases were referred to me by my brother and Dr. Sabin, and also sometimes patients would come to me direct, and also they would be referred to me for care from the hospital association itself.

Q. Calling your attention to the year 1939, were you summoned to appear before the Grievance Committee of the Oregon State Medical Society because of your treating members of hospital associations? A. Yes, I was.

Q. Do you have any of those papers with you? A. No, sir; I don't. I never kept the papers.

Q. Did you appear? A. I did.

Q. Did you ever get a transcript of the hearing? A. I did not.

Mr. Marcus: Your Honor, at this time I would like to ask that the defendants produce the transcript of that hearing and the papers and correspondence that led up to the hearing.

The Court: Do you know whether you have them?

Mr. Jaureguy: I know I have some of them. I have my doubts about the transcript.

977 The Court: Will you bring in what you have?

Mr. Jaureguy: Yes, your Honor.

Mr. Marcus:

Q. In that case perhaps I had better ask if you recall who was present? A. I do not recall all of them. Dr. Roy Payne, who is now dead, was present.

Mr. Jaureguy: I wonder if I could ask a question?

Mr. Marcus: Yes.

Mr. Jaureguy: Were you associated with Dr. Chamberlain at the time?

A. I was.

Mr. Jaureguy: Then I do have some of the papers, and I think the papers I have would show the members who were there, but I am not sure.

Mr. Marcus:

Q. Go ahead, Doctor. A. As I recall, Dr. Roy Payne, Dr. Charles Sears. I am not certain about Dr. Besson or Dr. Brooke. As a matter of truth, right now I can only recall Dr. Payne present and I believe Dr. Sears.

Q. What occurred at that hearing? A. They asked me if I treated patients that were sent to me by the National Hospital Association, and I answered that I did.

They asked me if I had any trouble getting my fees and I answered that I did not.

They asked me if I was told to treat patients in a
978 specific manner and I answered no, I treated them according to the manner in which I diagnosed the case.

They asked me if I intended to continue to treat them and I told them yes.

They asked me if I was aware of the procedure that had been instituted during the past few years, or words to that effect, and I told them I was quite aware of that.

They asked me if I intended to quit that practice and quit taking care of patients and I told them no, I was, first of all, a doctor and would take care of people that were sick, and that I intended to continue to do so.

I think I was advised if I did not quit taking care of contract practice I would be expelled from the Medical Society.

I told them I probably did as little contract work as any man in the City of Portland. Possibly my contract practice was 10 or 12 per cent of my total gross income, and I told them every doctor there within the sound of my voice and men I am looking at and talking to to my knowledge did

more contract work than I did. It just so happened I took National Hospital Association cases and they did not but, as far as the bulk or volume of contract work was concerned, I did less than some of them.

Mr. Marcus:

Q. As a result of this proceeding, did you resign from the Society? A. Well, the thing seemed to lie dor-
979 mant for some time—I don't know how many months. Then, I think it was in April or May, 1940, Dr. Chamberlain, who had been quite ill during the meantime—he was hardly actively engaged in the practice of medicine—had been summoned before the Society.

Dr. Chamberlain did work for the Industrial Hospital Association and during his illness I took care of many cases for him and, in that way, indirectly worked for the Industrial Hospital Association.

The Court: Do you follow the same specialty as Dr. Chamberlain?

A. I did, sir, within the same office, although I did no contract work directly, never did any work directly, so to speak, for Industrial Hospital Association—I believe I had about two or three cases from the Industrial Hospital Association in my life up to this time.

Dr. Chamberlain received this letter, and we had a meeting in our office. Dr. Hendershott, Dr. Chamberlain and I were partners. Dr. Hendershott did railroad work; Dr. Chamberlain did Industrial work, and Dr. Chamberlain was ill. He said he did not want to fight the case, and I did want to fight the case because I did not want to resign from the Medical Society. Dr. Hendershott did not want any publicity.

We had two or three meetings. Finally, as I was the youngest of the three, being the junior member of the firm, I consented to resign, and I think it was in June, 1940, shortly after receiving the letter that I was to ap-
980 pear before the Medical Society, I sent in my resignation.

The Court: Did Chamberlain and Hendershott resign?

A. No. They drew a line of demarcation between railroad work, which was contract work, but they said railroad work was a different type of contract work than hospital association work.

The Court: They let Chamberlain off because of illness?

A. They let Chamberlain off because of illness and Dr. Hendershott was let off because he did railroad work. Both Hendershott and Chamberlain would see cases from me, in my absence, but essentially that was my practice, you might call it.

The Court: What railroad did Hendershott represent?

A. The Northern Pacific Terminal, sir.

981 Mr. Marcus:

Q. After you resigned, since that time have you applied for reinstatement? A. Yes, sir. I even thought that Dr. Hendershott felt worse about my being out of the Society than I did myself. And in 1941, after coming from the Arlington Club luncheon, he said that he thought things had been smoothed out, and since I did so little contract work he thought I should reapply for entrance into the Medical Society, and in 1941 I did. I went over to see Dr. Sears about this time and talked to him and he asked me if I thought that I had learned my lesson, and I replied that "I had no lesson to learn, but that I understand things have been smoothed out and if I make application I will be admitted to the Medical Society, and I want to know personally what your attitude is going to be relative to my admission into the Medical Society, if you will tell me." And Dr. Sears said he didn't care to give me a direct answer, but that he wo 'd not stand in my way to being readmitted. However, I applied in 1941 and the application was never acted upon favorably.

Q. Did you apply subsequently to that time? A. Again in 1944 or '45. By this time I was doing about three or four percent contract work. That is about what I do now. Three or four percent is my gross contract work, and all the rest is private practice. I was advised by the group—I

982 don't remember just who, and I wouldn't care to give the name of anyone for fear I would be in error—but I understood from one or two the members of the Council that the thing had been smoothed out and there had been a change in attitude on the part of the Medical Society relative to contract work, and he thought, since I did the least of almost anyone, that I should reapply. I talked to some of the men and asked them if this was smoothed out would they all be willing to go back into the Medical Society. Some of the men that I talked to said that

they thought if there was a blanket letter inviting the men back into the Society—some of the men were quite incensed, quite belligerant, quite hurt, and some were insulted—that they would go back into the Medical Society if they were all admitted in a blanket letter. And I personally canvassed all these men that I could think of that had either resigned or been expelled and was assured by the men that they would go back. So I applied again, and again the application was not acted upon, or if it was acted upon, I never heard from it.

I might add that I have forgotten who signed my application, but I believe it was some member of the Council at the time signed my application for readmittance into the Medical Society.

Q. Now, Doctor, prior to this time you had this trouble with the Medical Society were you teaching at the
983 Medical School? A. I was assistant clinical instructor in ophthalmology. That is diseases of the eye.

Q. As a result of your difficulties with the Society did you withdraw from that position?

Mr. Jaureguy: I object to that as a conclusion of the witness. He can tell whether he withdrew or not, of course.

The Court: Answer.

Mr. Marcus: Go ahead.

The Court: Read the question.

(Last question read)

A. Well, I just didn't go up to the Medical School when my turn came. I simply told the boys that I couldn't make it and stayed away from the Medical School. I officially did not write in any resignation. I just didn't put in my appearance when my turn came to appear in the clinic.

Q. Is Dr. Wise a colleague of yours on the faculty of the Medical School? A. I think not. I am quite certain that he is not.

Q. Was he at that time? A. I believe he was, but I am not in the same office with Dr. Wise.

Q. Oh, you are not. A. But I believe he was teaching internal medicine at the time, and I am quite certain that he is no longer affiliated with the Medical School.

984 Q. Now, Doctor, what effect has your not being a member of the Society had with respect to malpractice insurance? A. Well, I have had to take malpractice insurance with a different company. It costs about—I imagine about 50 per cent more; possibly not that—35 per cent more—and it is difficult to get malpractice insur-

ance if you are not a member of the Society. In fact, many of the insurance companies will not insure you if you are not a member of the Society. I remember very definitely a very good friend of mine who carries—who does insurance work. He said that he was certain that they would have no difficulty. However, just as soon as it was stated that I had planned to withdraw from the Medical Society, why, the application was refused. I did subsequently, however, get malpractice insurance, and of course I have carried it ever since.

Q. Now, Doctor, what has your experience been since your resignation with respect to OPS members? A. You can't practice medicine in the city and not have a good many people and families as your patients. You find many times men who have been patients, either as private patients or under other contracts, will come to you and you find that they are now under OPS coverage. And, of course, OPS doesn't pay me—I am not a member, and I don't take care of them. I imagine I have one or two or three a week of such patients that we have to send to someone else.

Q. Now, Doctor, prior to your trouble with the
985 Society had you attended scientific meetings of the Society? A. Yes, constantly.

Q. And after your trouble with the Society— A. Well, it is very difficult to attend these meetings. You don't attend, that is all, because of the personal indignation and humiliation of being asked if you are a member of the Society. And part of post-graduate work is prefaced with this remark or statement: "In order to enroll as a student in this particular post-graduate course you must be a member in good standing of your local Medical Society." And on that basis it is very difficult to do post-graduate work in certain parts of the country. I might say, in practically every part of the country.

Mr. Marcus: That is all, Doctor.

Mr. Jaureguy: There will be no questions, Doctor. Thank you.

(Witness Excused)

Mr. Marcus: Now, your Honor, I would like to point out a few items in our exhibits. The first one is Exhibit 339, which is an account of a Council meeting appearing in the Northwest Medicine for January, 1940.

It states: "The regular monthly meeting of the Council was held in Portland December 3, at which time the following actions were taken:"—and I will read merely one

I am interested in bringing out.

986 "Consent was given to all component medical societies to proceed with disciplinary action on members servicing unapproved hospital associations after January 1, 1940."

In Pre-Trial Exhibit 341, which is an account of a meeting of the Council of the Oregon State Medical Society on February 10th of that year, and the edition of Northwest Medicine is March, 1940, this appears:

"The following resolution was passed by the Executive Committee and approved by the Council: (2) That the Council do not approve the plan of any hospital association that is not owned and controlled by physicians who are members of their local society and Oregon State Medical Society."

Then at that same Council meeting, and reading from the same item, this appears:

"Mr. John R. Caughell has been employed as assistant to the Executive Secretary in connection with the activities of the Bureau of Medical Economics. The following is an outline of the duties of this office: (5) Interview the President and Secretary of each component Society, explaining the Society's program, and leaving with them material on the medical care of low-income groups and other phases of medical economics published by the Society, and the American Medical Association."

And again at this same meeting and reading from

987 the same item, appears this:

"Fee Schedule Approved. In keeping with the established policy of the Oregon State Medical Society to provide for organization by local societies of special plans for giving medical care to industrial workers was the adoption of a fee schedule. Such schedule was drawn up by the Council of the Oregon State Medical Society and mailed to each member of the Society with a request that he indicate in writing his agreement to render service according to this schedule. The purpose of this fee schedule is to make provision for those subscribers to approved medical service bureaus who are frequently away from communities served by those bureaus. Such subscribers are employed by truck lines, oil companies, road contractors, and other employers whose operations are not confined to a single locality. Such services are limited to emergency care, except upon special authorization, and obviously apply only to physicians who reside outside the jurisdiction of approved medical service bureaus.

"The above fee schedule, while drawn up by the Bureau of Medical Economics and passed by them, is fundamentally an action of the Oregon State Medical Society acting in its supervisory capacity."

The Court: I judge you don't think doctors' associations can set up these schedules?

Mr. Marcus: Not if it is a matter of agreement
988 and those fee schedules are the fee schedules to be used by the doctors.

The Court: Then if the doctors can't do it, how can the hospital associations do it?

Mr. Marcus: The hospital associations don't do it. All they say is that, "If you treat a patient, all we will pay you is this much"; whereas here we have an agreement with the doctors and the doctors actually agree that they will if they treat persons charge just this much.

The Court: The hospital associations' fee schedules are included in their contract.

Mr. Marcus: But they don't make a contract with the doctors, your Honor.

The Court: That is what the doctors are kicking about, that they go off with somebody else and decide what the doctors may charge.

Mr. Marcus: No, because the only agreement the hospital associations make is that they will pay up to a certain amount.

The Court: You just think that over, Mr. Marcus, between now and next Tuesday or Wednesday. If the doctors cannot agree on the fee schedule for themselves and among themselves, how can somebody else make an arrangement for them in their behalf without consulting them? Why should there be a schedule in one case and not in the other?

Mr. Marcus: I just tried to tell you, your Honor, that
in one case it is a matter of agreement by the doctors,
989 and the medical societies, and in the other case it is a matter of the hospital association itself saying that if a doctor treats a patient of theirs, they will pay up to a certain amount. And the doctor doesn't have to do it; he doesn't have to charge that amount. He has made no agreement to charge that amount.

Mr. Jaureguy: If he doesn't, he will be made a defendant in an anti-trust suit, though.

The Court: Don't get too excited. You will have plenty of time for that.

Mr. Marcus: Oh, sure.

The Court: Plenty of chance. Call another witness.